

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

James Brandt,

Complainant,

vs.

ORDER OF DISMISSAL

Unknown,

Respondent.

On December 3, 2010, James Brandt, Kasota City Attorney, filed a Complaint with the Office of Administrative Hearings alleging that an unknown person violated Minn. Stat. § 211B.11 by posting a campaign sign on the door of the polling place on election day. The Chief Administrative Law Judge assigned this matter to the undersigned Administrative Law Judge (ALJ) on December 3, 2010, pursuant to Minn. Stat. § 211B.33.

After reviewing the Complaint and attachments, the Administrative Law Judge finds that, because the Complaint fails to identify the person alleged to have violated Minn. Stat. § 211B.11, it does not state a *prima facie* violation of that statute.

Based upon the Complaint and the supporting filings and for the reasons set out in the attached Memorandum,

IT IS ORDERED:

That the Complaint filed by John Brandt is DISMISSED WITHOUT PREJUDICE. The Complainant may file a subsequent complaint properly identifying the individual believed to have violated Minn. Stat. § 211B.11 without paying an additional filing fee.

Dated: December 6, 2010

/s/ Eric L. Lipman

ERIC L. LIPMAN

Assistant Chief Administrative Law Judge

NOTICE

Under Minn. Stat. § 211B.36, subd. 5 this order is the final decision in this matter and a party aggrieved by this decision may seek judicial review as provided in Minn. Stat. §§ 14.63 to 14.69.

MEMORANDUM

The Complaint alleges that on November 2, 2010 (election day), an unknown individual posted a sign promoting the election of Joe Rybus for mayor of Kasota on the doors leading into Kasota City Hall. On that day, City Hall hosted a municipal polling place.

Minnesota Statutes § 211B.11, subd. 1, prohibits a person from displaying campaign material, posting signs, soliciting, or in any manner trying to induce or persuade voters within 100 feet of a building in which a polling place is situated to vote for or against a candidate on election day.

Complaints alleging violations of the Fair Campaign Practices Act must be filed on the form prescribed by the Office of Administrative Hearings, must identify the individual or entity being complained about, the statutory provision alleged to have been violated, and must detail the factual basis for the claim that a violation of law has occurred.¹

Because the Complainant failed to identify who allegedly posted the campaign sign, the Complaint is not sufficiently detailed to determine that a violation of law has occurred under Minn. Stat. § 211B.11. The burden to investigate and prove up any alleged violation of the Fair Campaign Practices Act rests solely with the Complainant. The OAH does not possess investigative powers and does not conduct an investigation into alleged violations at any stage of the campaign complaint process.²

The Complaint is dismissed without prejudice to re-filing. The Complainant may re-file his complaint without payment of an additional filing fee. Complaints must be filed within one year of the occurrence of the act or failure to act that is the subject of the complaint.³

E.L.L.

¹ Minn. Stat. § 211B.32, subd. 3.

² Minn. Stat. § 211B.32 to 211B.37.

³ Minn. Stat. § 211B.32, subd. 2.